

# NEWSLETTER

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## LOCAL ACCOMMODATION IN RESIDENTIAL UNITS: THE SUPREME COURT OF JUSTICE JUDGMENT OF JANUARY 2026

Local accommodation (“Alojamento Local”) is today a relevant component of the real estate market and tourist offer in Portugal, generating a growing number of conflicts in buildings constituted in horizontal property.

The articulation between the property rights of the condominium owners, the restrictions contained in the condominium deeds and regulations and the legal regime of local accommodation has been the subject of intense doctrinal and jurisprudential discussion.

In this context, Decree-Law no. 76/2024 reformulated the legal regime for the operation of local accommodation establishments, clarifying the compatibility between the operation of local accommodation and the residential destination of autonomous units.



## FRAMEWORK

The Supreme Court of Justice, through the Judgment delivered on 15 January 2026, in the context of case no. 4966/23.4T8FNC.L1.S1, ruled on the possibility of an autonomous unit intended for housing to be used for local accommodation, despite the fact that the constitutive title of the horizontal property and the condominium regulations provide for limitations on the use of the units for commercial purposes, services or shared use by several users.

The Court concluded that, in light of the regime introduced by Decree-Law No. 76/2024, the operation of local accommodation in an autonomous unit does not constitute a use other than the residential purpose for which the fraction is intended.

The prohibition of this activity must be expressly stated in the horizontal property deed, in the regulations of the condominium that is an integral part of it or in a subsequent resolution of the condominium meeting under the terms provided for by law.

## THE CASE

The dispute originated in an action brought by the condominium administrator and by a unit owner, as Claimants, against the owners of an autonomous unit, as Defendants, requesting that the use of that unit as a local accommodation establishment be declared illegal.

The Claimants also requested the immediate cessation of such use and the condemnation of the owners to pay a periodic penalty payment of € 250 per day until the effective cessation of the activity.

The Court of first instance upheld the action, declared the use of the unit for local accommodation unlawful, and ordered its reinstatement for residential purposes.

The Court of Appeal, however, revoked this decision and acquitted the Defendants of the claims made.

The unit in question was intended for housing, but the defendants decided to use it to provide luxury temporary accommodation services to tourists, for remuneration, and the operation is registered as a local accommodation establishment in the National Registry of Local Lodging.

The condominium deed and regulations prohibited, among other aspects:

- ✓ the use of units for activities that could disturb the tranquillity of the condominium owners
- ✓ the creation of rights that would allow shared use by several users
- ✓ the use of units for commercial, industrial or service purposes

It was based on these limitations that the Claimants argued that the operation of local accommodation would be incompatible with the relevant instruments of the condominium.

## THE ISSUES CONSIDERED BY THE SUPREME COURT OF JUSTICE

The Supreme Court of Justice had to assess, in particular, whether Decree-Law No. 76/2024 was applicable to the case, despite the fact that the action had been brought and the judgment of the first instance had been issued under the previous law, whether the doctrine of the Standardizing Judgment of Jurisprudence No. 4/2022 continued to be decisive and whether the clauses of the constitutive title and the condominium regulations prevented the use of the fraction for local accommodation.

As for the application of the new law, the Court understood that Decree-Law No. 76/2024 applies to situations already constituted, as it regulates the content of the unit owner's right of ownership over his fraction and the articulation of this right with the rights of the other unit owners.

In the view of the Supreme Court of Justice, it was not a question of an inadmissible retroactive application, but rather of the application of a new law to a long-term legal relationship which existed at the time of its entry into force.

The Court also considered that the doctrine of the Standardizing Judgment of Jurisprudence No. 4/2022 is no longer applicable in the same terms, since the legislator changed the legal framework in which this understanding had been formed. This conclusion is relevant because the aforementioned standardising judgment had stated, under the previous regime, that the residential purpose contained in the constitutive title did not allow, in certain terms, the exploitation of local accommodation.

## THE DECISION

The central point of the decision lies in the [Legal Regime of Local Lodging](#), as amended by Decree-Law No. 76/2024, which establishes that the installation and operation of local

lodging in an autonomous unit does not constitute a use other than the purpose for which the unit is intended, without prejudice to any prohibition in the constitutive title of the horizontal property, in the regulation of the condominium that is an integral part of it or in a subsequent resolution of the condominium assembly.

The Supreme Court of Justice understood that generic prohibitions on use for commercial, industrial or service purposes are not enough, by themselves, to prevent the exploitation of local accommodation.

In the interpretation of the Supreme Court of Justice, the limitation to local accommodation must result from an express and specific prohibition directed at this activity.

The fact that the limitations contained in the constitutive title should be interpreted in the light of the context existing at the time of the constitution of the horizontal property, in 1990, was also valued. In this context, the reference to the shared use of fractions was understood as directed to figures known at the time, namely real rights of temporary housing, and not to local accommodation, which would only have subsequent legal regulation.

As for the alleged disturbance of the tranquillity of the unit owners, the Supreme Court of Justice pointed out that the facts invoked by the Claimants were not proven. For this reason, the abstract invocation of nuisances, noise, insecurity or greater turnover of people was not enough to justify the prohibition of the activity in that specific case.

Consequently, the Supreme Court of Justice dismissed the appeal and upheld the judgment under appeal, upholding the acquittal of the defendants.

## **THE PRACTICAL IMPACT**

The decision reinforces the idea that, in the regime currently in force, local accommodation can coexist with the residential destination of the unit, except when there is a valid and express prohibition in the relevant instruments of the condominium.

It is further stipulated that broad or generic clauses on commercial purposes, services or shared use may not be enough to prevent the exploitation of local accommodation.

Any prohibition should therefore be formulated in a clear and specific manner, respecting the applicable legal requirements.

The Judgment also shows that a subsequent resolution of the Condominium Assembly aimed at prohibiting local accommodation requires a majority representing two-thirds of the building's permillage and only takes effect for the future, applying to registration applications submitted after that resolution.

On the other hand, when specific disturbances of the normal use of the building or the rest of the condominium owners are at stake, the opposition to local accommodation must be based on repeated and proven facts, and a generic disagreement with the activity is not enough.

## **CONCLUSION**

The Judgment of the Supreme Court of Justice, of 15 January 2026, is a relevant decision in the articulation between horizontal property and local accommodation.

The decision does not eliminate the possibility for the unit owners to limit or prohibit this activity, but requires that this limitation has a clear, express and appropriate legal basis for the regime currently in force.

In practical terms, the Judgment favours a more permissive reading of the exploitation of local accommodation in housing units, provided that there is no express prohibition and that there are no concrete and repeated disturbances in the life of the condominium.

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